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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,086	02/15/2002	Taro Suga	02090/TL	3499
1933	7590	11/19/2003	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC				
767 THIRD AVENUE				
25TH FLOOR				
NEW YORK, NY 10017-2023				
		VERBITSKY, GAIL KAPLAN		
		ART UNIT	PAPER NUMBER	
		2859		

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/077,086	SUGA, TARO	
	Examiner Gail Verbitsky	Art Unit 2859	MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 September 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) Interview Summary (PTO-413) Paper No(s). _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 9 is objected to because of the following informalities: Claim 9 is substantially redundant to claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 9-12 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Kleven (U.S.5003295).

Kleven discloses in Fig. 1 all the subject matter claimed by applicant. Kleven discloses a temperature measuring device (probe 10 and thermal member 30) measuring a temperature of the airflow flowing over the surfaces of the device (casing/strut 14) and provides an output (col. 3, lines 18-20) (total) temperature of the airflow. The device's leading edge has an inclined (tapered) shape facing airflow such that an ice that can deposit on the leading edge is being heated/ deiced by heaters 44 and melted (detached at a stage of growing) before becoming dangerous for an aircraft (being blown into an engine).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Kleven.

Kleven discloses the device as stated above in paragraph 3.

Kleven does not teach the particular angle of inclination as claimed in claims 1-2, 5-8, and the particular width of the leading edge, as stated in claims 3-4.

With respect to claims 2, 5-8: the particular angle of inclination of the leading edge, i.e., less than or equal 9⁰ and less than 60⁰, absent any criticality, is only considered to be the “optimum” value of the angle of inclination disclosed by Kleven that a person having ordinary skill in the art would have been able to determine using routine experimentation based, among other things, on the desired shape of the device, etc. *In re Boesch*, 205 USPQ 215 (CCPA 1980). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the angle of inclination of the surface of the device disclosed by Kleven, less or equal 9 and less than 60 degrees, so as to make the device as compact as possible, so as to minimize the manufacturing costs.

With respect to claims 3-4: the particular width (size) of the leading edge section, i.e., less than or equal 1 mm, absent any criticality, is only considered to be the “optimum” value of the width of the leading edge section disclosed by Kleven that a

person having ordinary skill in the art would have been able to determine using routine experimentation based, among other things, on the desired shape and size of the device, etc. *In re Boesch*, 205 USPQ 215 (CCPA 1980). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the width of the leading edge of the device disclosed by Kleven, less than 1 mm, so as to make the device as compact as possible, so as to minimize the manufacturing costs.

Response to Arguments

6. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection necessitated by present amendment and Applicant's statement that JP 11095563 is the same inventor (as stated by applicant in page 7 of the present amendment). Affidavit is required.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. The prior art made of record and not relied upon considered pertinent to applicant's disclosure.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Verbitsky who can be reached at (703) 306-5473 Monday through Friday 7:30 to 4:00 ET.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-5473.

GKV

Gail Verbitsky
Patent Examiner, TC 2800

10 November 2003